


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

AUG 19 2016

CLERK, U.S. DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
BY  DEPUTY

DUSTIE CLOSSON,

Plaintiff,

V.

CITIMORTGAGE, INC.,

Defendant.

CIVIL ACTION NO. SA-16-CA-364-FB

ORDER TO SHOW CAUSE

Before the Court is the status of the above-styled and numbered cause. Without objection from plaintiff, this Court accepted the Memorandum and Recommendation (sometimes referred to as "the M&R") of United States Magistrate Judge John W. Primomo recommending this case be dismissed for plaintiff's failure to state a claim upon which relief can be granted pursuant to defendant's rule 12(b)(6) motion. The subject of this Order to Show Cause is a rule 11 directive in the M&R to plaintiff's counsel, Wade R. Kricken of Dallas, which Mr. Kricken ignored.

As discussed in the M&R, Federal Rule of Civil Procedure 11(b) allows the Court to sanction an attorney for abusive tactics in order to prevent the needless increase in litigation costs caused by the filing of unwarranted pleadings. (M&R, docket no. 6, p. 9) (quoting FED. R. CIV. P. 11(b)). Abusive tactics include the filing of frivolous claims and the use of pleadings to harass or delay. *Id.* (quoting Fed. R. Civ. P. 11(b)(1)-(4)). If, after notice and a reasonable opportunity to respond, the Court determines that rule 11 has been violated, the Court may impose an appropriate sanction on any attorney, law firm or party that violated the rule or is responsible for the violation. *Id.* at 9-10 (discussing FED. R. CIV. P. 11(c)(1)). "On its own, the Court may order an attorney, law firm, or party

to show cause why conduct specifically described in the order has not violated rule 11(b).” *Id.* at 10 (citing FED. R. CIV. P. 11(c)(3)). In addition to recommending that defendant’s motion to dismiss be granted, the Magistrate Judge Ordered that “[i]n response to this Memorandum and Recommendation, Kricken must show cause why sanctions under rule 11 should not be imposed.” The file reflects no further activity from plaintiff or attorney Kricken. As pointed out in the M&R:

In the last two lawsuits, filed on behalf of 330 Cedron Trust and now on behalf of Dustin Closson (through the Power of Attorney she conferred on Juan Ramirez), Wade Kricken has sought to stop foreclosure by Citimortgage on the property at 330 Cedron Chase, San Antonio, Texas pursuant to its Deed of Trust; the validity of which has never been challenged. Kricken filed a claim for 330 Cedron Trust’s equitable right of redemption under Texas common law, and for injunctive relief. Yet, he failed to respond to Citimortgage’s motion for judgment on the pleadings which was granted. In the case at bar, Kricken filed a claim under RESPA and the Uniform Commercial Code. Again, he failed to respond to Citimortgage’s motion to dismiss.

In both cases, Kricken presented pleadings claims which were not warranted by existing law. He made no attempt to defend, in either case, the presentation of those claims. In the instant case, he named Closson as the party plaintiff and alleged that she is the “record title holder to the property.” In light of his prior representation of 330 Cedron Trust, the entity which held title to the property after Closson’s interest was foreclosed upon, Kricken had to be aware that Closson was not the record title holder to the property. Thus, his factual allegation in the instant lawsuit is false.


(docket no. 6, pp. 10-11). This Court agrees with the Magistrate Judge it therefore appears that “the last two lawsuits were filed by Kricken for an improper purpose, such as to harass Citimortgage and cause unnecessary delay in the foreclosure of the property with no viable factual or legal basis for doing so.” *Id.* at 11.

IT IS THEREFORE ORDERED that attorney Wade Kricken shall appear before this Court on **Monday, September 19, 2016, at 8:30 a.m.**, in Courtroom 2 of the John H. Wood, Jr. United States Courthouse, 655 East Cesar E. Chavez Boulevard, San Antonio, Texas 78206, to show cause why he should not be sanctioned under rule 11 pursuant to the Memorandum and Recommendation.

The Court notes that notwithstanding that Mr. Kricken's office is in Dallas, he has a plethora of cases in the Western District, all of which appear to be of a similar foreclosure nature. *See* "Attachment A." IT IS THEREFORE ORDERED that the District Clerk shall provide a copy of this Order to Show Cause to the Article III and Magistrate Judges of the Western District of Texas for their information.

It is so ORDERED.

SIGNED this 19th day of August, 2016.



FRED BIERY
UNITED STATES DISTRICT JUDGE

Attachment A
Attorney Information

New Attorney Lookup

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Attorney

Wade Kricken

24034527

Attorney at Law

P.O. Box 59331

Dallas, TX 75229-1331

Phone Number: 214.256.9288 **Fax Number:** 214.593.3108

E-Mail: wade@krickenlawfirm.com

Courtesy E-Mail:

ECF Login Name: kric2403 **Last Login:** 2016-07-10 22:20

Person ID: 7756193

District Bar Information

Bar Status: Admitted to Practice

Admission Date: 03/05/2012 **Application Date:** 05/09/2011 **Division:** Austin

Fee Status: none **Fee Year:**

Attorney Specialty Information

NO SPECIALTIES FOUND

Attorney Disciplinary Information

NO DISCIPLINARY ACTIONS FOUND

Cases Assigned To

<u>1:10-cv-00597-SS</u>	Wilson vs. Chase Home Finance, LLC
<u>1:11-cv-00290-SS</u>	Segalatto vs. JPMorgan Chase Bank, N.A.
<u>1:11-cv-00318-SS</u>	Vara vs. Chase Home Finance, LLC
<u>1:11-cv-00420-SS</u>	Reardean vs. CitiMortgage, Inc.
<u>1:11-cv-00441-SS</u>	Ray vs. CitiMortgage, Inc.
<u>1:11-cv-00566-LY</u>	Nowak vs. Wells Fargo Bank, N.A.
<u>1:11-cv-00592-SS</u>	Eaves vs. GMAC Mortgage, LLC
<u>1:12-cv-00148-SS</u>	Ray vs. CitiMortgage, Inc.
<u>1:12-cv-00200-SS</u>	Curtis vs. Wells Fargo Bank, N.A.
<u>1:12-cv-00218-LY</u>	Matta vs. The Bank of New York Mellon
<u>1:12-cv-00283-SS</u>	Curtis vs. Wells Fargo Bank, N.A.
<u>1:12-cv-00296-LY</u>	Nguyen vs. Federal Home Loan Mortgage Corporation

<u>1:12-cv-00537-LY</u>	Luna vs. Bank Of America, N.A.
<u>1:12-cv-00934-SS</u>	Vara vs. JPMorgan Chase Bank, National Association
<u>1:12-cv-01094-SS</u>	Millard vs. The Bank of New York Mellon Trust Company, Nationa
<u>1:12-cv-01137-LY</u>	Rougeux vs. Bank of America, N.A.
<u>1:13-cv-00484-LY</u>	Wright vs. Wells Fargo Bank, NA
<u>1:13-cv-00541-LY</u>	Allen vs. Brandon B. Wolf, Mackie, Wolf, Zientz, & Mann, P.
<u>1:13-cv-00875-SS</u>	Schedeler vs. Wells Fargo, N.A.
<u>1:13-cv-00933-LY-ML</u>	Epstein vs. HSBC Bank USA, National Association, as Trustee
<u>1:13-cv-01015-LY</u>	Rougeux vs. Bank of America, N.A.
<u>1:13-cv-01059-SS</u>	Reardean vs. Federal Home Loan Mortgage Corporation
<u>1:14-cv-00003-SS</u>	Guevara vs. Chase Home Finance, LLC
<u>1:14-cv-00068-SS</u>	Vara vs. JPMorgan Chase Bank, National Association
<u>1:14-cv-00135-SS</u>	Tapia vs. CitiMortgage, Inc.
<u>1:14-cv-00196-LY</u>	Guevara vs. Ocwen Loan Servicing, LLC
<u>1:14-cv-00302-SS</u>	Medina vs. CTX Mortgage Company, LLC
<u>1:14-cv-00319-SS</u>	Rivera vs. JPMorgan Chase Bank, N.A.
<u>1:14-cv-00321-SS</u>	Skanse vs. Fidelity Bank
<u>2:13-cv-00036-DAE</u>	Castillo vs. Deutsche Bank National Trust Company
<u>2:13-cv-00044-AM-CW</u>	Castillo vs. PHH Mortgage Corporation
<u>2:13-cv-00060-AM</u>	Hamm vs. Wells Fargo Bank, N.A.
<u>2:14-cv-00046-AM-CW</u>	Castillo vs. Deutsche Bank National Trust Company, as Trustee o
<u>2:16-cv-00044-AM-CW</u>	Castillo vs. Select Portfolio Servicing, Inc.
<u>5:11-cv-00376-OLG</u>	Garcia vs. BAC Home Loans Servicing, LP
<u>5:11-cv-00379-XR</u>	Lucio vs. Wells Fargo Bank, N.A.
<u>5:11-cv-00417-XR</u>	Hernandez vs. BAC Home Loans Servicing, LP
<u>5:11-cv-00423-XR</u>	Codd vs. Chase Home Finance, LLC
<u>5:11-cv-00509-HLH</u>	Thomas vs. JPMorgan Chase Bank, N.A.
<u>5:11-cv-00907-OLG</u>	Nevarez vs. The Bank of New York Mellon
<u>5:11-cv-00925-HLH</u>	Carson vs. Federal National Mortgage Association a/k/a Fannie
<u>5:11-cv-01016-XR</u>	Molina vs. CitiMortgage, Inc.
<u>5:12-cv-00341-XR</u>	Wallingsford vs. Chase Bank, National Association, Successor by Mer
<u>5:12-cv-00367-FB</u>	Ernest vs. CitiMortgage Inc
<u>5:12-cv-00445-FB</u>	Bazan vs. Wells Fargo Bank, N.A.
<u>5:12-cv-00502-OLG</u>	Sanchez vs. U.S. Bank National Association, as Trustee for J.P

<u>5:12-cv-00953-HLH</u>	Payares vs. JPMorgan Chase Bank, National Association, Success
<u>5:13-cv-00923-DAE</u>	Rackley vs. JPMorgan Chase Bank, National Association
<u>5:14-cv-00786-HLH</u>	10711 Staggering Creek Trust vs. Citimortgage, Inc.
<u>5:14-cv-00790-XR</u>	Spearwood Trust vs. JPMorgan Chase Bank, N.A.
<u>5:14-cv-00933-XR</u>	330 Cedron Trust vs. CitiMortgage, Inc.
<u>5:14-cv-01126-HLH</u>	Green Coral Trust vs. JPMorgan Chase Bank, National Association
<u>5:15-cv-00100-DAE</u>	Carr, II vs. Seterus, Inc.
<u>5:15-cv-00111-FB</u>	Dover Trust vs. CitiMortgage, Inc.
<u>5:15-cv-00328-DAE</u>	Basil Trust vs. Wells Fargo Bank N.A.
<u>5:15-cv-01077-RP</u>	4418 Waldon Pond Trust vs. Ocwen Loan Servicing, LLC
<u>5:15-cv-01113-FB</u>	6716 Spearwood Trust vs. JPMorgan Chase Bank, N.A.
<u>5:16-cv-00276-DAE</u>	Davis vs. Seterus, Inc.
<u>5:16-cv-00314-XR</u>	Davis vs. Ocwen Loan Servicing
<u>5:16-cv-00364-FB</u>	Closson vs. CitiMortgage, Inc.
<u>5:16-cv-00639-FB</u>	Mark Washington vs. JPMorgan Chase Bank, National Association
<u>5:16-cv-00800-FB-PMA</u>	Davis vs. Ocwen Loan Servicing, LLC
<u>6:10-cv-00350-WSS</u>	Wells vs. BAC Home Loans Servicing, LP f/k/a Countrywide Hom
<u>6:13-cv-00257-WSS</u>	Washington vs. Wells Fargo Bank, N.A.
<u>6:13-cv-00275-WSS</u>	Brown vs. VRM (Vendor Resources Management Duly Authorized A
<u>6:13-cv-00323-WSS</u>	Rackley vs. JPMorgan Chase Bank, National Association
<u>7:13-cv-00061-RAJ</u>	Middleton vs. The Bank of New York Mellon Trust Company, Nationa
<u>7:15-cv-00041-DAE</u>	The Bank of New York Mellon Trust Company, Nationa vs. Middleton

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